
TOO GOOD TO BE TRUE....

A Column on Consumer Issues

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LEMON LAW

Even the most dependable car makers sometimes produce what is commonly called a "lemon" -- a car that frequently breaks down and seems to defy repairs. What happens when your new car begins to "smell" like a lemon?

In 1985, the North Dakota Legislature adopted a "lemon law" relating to the purchase of new vehicles. The 1995 Legislative Session amended the law to include leased vehicles.

The lemon law applies only to new vehicle purchases - it does not apply to motorcycles, motor homes, or used cars. Under North Dakota law, you have little protection against defects that surface after you buy a used car, unless you purchased an extended warranty or you can prove the seller lied about the condition of the vehicle.

If a new car turns out to be a lemon, the law gives the owner or lessee the opportunity to get a full refund or a more reliable replacement, less a reasonable allowance for use of the vehicle. This allowance may not exceed 10 cents per mile driven or 10 percent of the purchase price, whichever is less.

Here is what state law provides must happen before your vehicle is determined to be a true lemon and what you must do to use the law:

- The defect must be something that "substantially impairs the use and market value of the passenger motor vehicle," and the dealer must be given a "reasonable number of attempts" to fix the defect. A "reasonable number" is considered to be more than three tries, or a cumulative total of 30 business days in which the vehicle is out of service, during the term of applicable warranties or one year from purchase.
- The defect must be reported to the dealer or manufacturer within one year of the purchase or during the term of applicable warranties, whichever is earlier. Because nearly all new cars have at least a 12,000 mile/one year full-service warranty, you probably have one year to report the defect under most circumstances.
- The law states that you must first attempt to settle the dispute through the car maker's arbitration procedures. New car makers have third-party arbitration systems set up to work out non-binding settlements. The arbitration hearing must be held in the state, if you live in North Dakota.

- If the problem is still unresolved after the arbitration hearing, you may hire a private attorney and sue for a new car or a full refund. A judge will decide in civil court who is correct. The law gives you little time to sue, however. You must bring action within 18 to 24 months of the date of original delivery.

Minor problems with a new vehicle which require continual repairs are not covered under the lemon law. Your new car's clock that continually runs 25 minutes fast or a trunk light that repeatedly flickers out is annoying, but it does not make the car a real lemon.

The Office of Attorney General publishes an informational brochure entitled North Dakota's Lemon Law. If you wish to obtain a copy, contact the Consumer Protection Division. If you have questions about settling disputes with a new car dealer, contact the Attorney General's Consumer Protection Division or Autocap, a consumer action program sponsored by the Automobile Dealers Association of North Dakota. Autocap is located in Fargo, and the telephone number is 701-293-6822.

The Attorney General's Consumer Protection Division investigates allegations of fraud in the marketplace. Investigators also mediate individual complaints against businesses. If you have a consumer problem or question, call the Consumer Protection Division at 328-3404, toll-free at 1-800-472-2600, or 1-800-366-6888 (w/TTY). This article and other consumer information is located on our website at www.ag.state.nd.us.

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